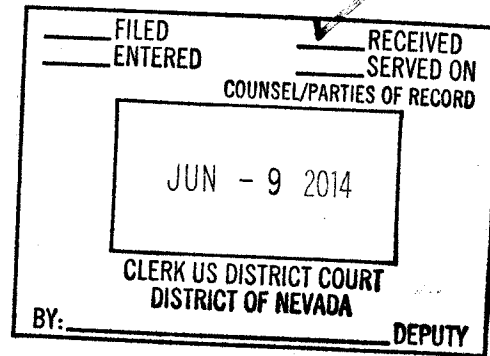


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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

INFUSION MEDIA, LLC, *et al.*

Defendants.

Case No. 2:09-cv-01112-GMN-VCF

FILED UNDER SEAL

**FEDERAL TRADE COMMISSION'S *EX PARTE* MOTION
FOR AN ORDER TEMPORARILY SEALING ENTIRE FILE AND DOCKET
AND MEMORANDUM IN SUPPORT**

1 Plaintiff Federal Trade Commission respectfully moves for an *ex parte* order temporarily
2 sealing the entire file and docket in this matter ("Seal Order"). Specifically, the FTC requests
3 that the proposed Seal Order temporarily seal the entire docket and file, including the following
4 items which are filed concurrently with this Motion: (1) Federal Trade Commission's Motion to
5 Hold Tony D. Norton; Philip J. Danielson; Philip Danielson, LLC; Foundation Business
6 Solutions, LLC; Strata G Solutions, LLC; and Direct Results Solutions, LLC in Contempt
7 ("Contempt Motion"), and Memorandum in Support; (2) Motion to Admit Government
8 Attorneys ("Motion to Admit"); and (3) all exhibits, certifications, and papers filed in support of
9 the FTC's Contempt Motion.

10 The FTC seeks a Seal Order temporarily prohibiting the Clerk of the Court from
11 disclosing the Contempt Motion, Motion to Admit, or any other any document filed in
12 connection with these filings. In addition, the FTC requests that the Seal Order prohibit the
13 Clerk of the Court from making available to any member of the public or press any document or
14 copy of any document filed in connection with the Contempt and Appearance filings. The
15 proposed Seal Order would also prohibit the Clerk of the Court from initiating any electronic
16 filing or docketing activity in this case until the seal has been lifted. The proposed Seal Order
17 would not prohibit the FTC from disclosing to non-parties, such as law enforcement authorities,
18 the existence of, or parties to, this action or any order of this Court, including any temporary
19 restraining order.

20 Concurrently with the filings in this action, the FTC is also filing under seal a Complaint
21 for Injunction and Other Equitable Relief and an *Ex Parte* Motion for a Temporary Restraining
22 Order in a related case against the defendants named in the Contempt Motion as well as
23 additional individuals and corporate entities (collectively "Defendants") for violations of the
24 Federal Trade Commission Act, 15 U.S.C. § 45(a), and Mortgage Assistance Relief Services
25 ("MARS") Rule, 15 C.F.R. Part 322, recodified as 12 C.F.R. Part 1015. *See* Compl., *Ex Parte*
26
27

1 Mot. for TRO and Mem. in Supp., *FTC v. Philip Danielson, LLC*. The FTC requests that the
 2 seal in this case remain in effect until the close of the fifth business day after any temporary
 3 restraining order is issued in *Philip Danielson, LLC*, or until defendants in the *Philip Danielson,*
 4 *LLC* matter have been served with the TRO, whichever occurs first. The FTC will notify the
 5 Clerk of the Court in writing in the event that all defendants are served prior to the fifth business
 6 day following entry of the Seal Order.

7 As explained below, the proposed Seal Order is necessary to prevent immediate and
 8 irreparable harm to the Court's ability to grant full and effective final relief in this matter.
 9 Moreover, immediate disclosure would not be in the public interest.

10 MEMORANDUM

11 The FTC is moving for a contempt motion against Tony D. Norton; Philip J. Danielson;
 12 Philip Danielson, LLC; Foundation Business Solutions, LLC; Strata G Solutions, LLC; and
 13 Direct Results Solutions, LLC ("Contempt Defendants") seeking compensation for the \$35
 14 million of consumer harm caused by a deceptive scam offering mortgage assistance relief
 15 services in violation of this Court's order enjoining the making of false or misleading statements
 16 or representations of material fact in connection with the advertising, marketing, or sale of any
 17 product or service.¹ As explained more fully in the FTC's memorandum accompanying the
 18 Contempt Motion and materials filed in support, as well as the materials accompanying the TRO
 19 Motion in *Philip Danielson, LLC*, given Defendants' prior disregard of court orders and various
 20 measures Defendants have taken to evade detection, there is a serious risk Defendants will move
 21 quickly to destroy records and conceal or dissipate assets if they receive notice of the FTC's
 22 motions. Proceeding *ex parte* in *Philip Danielson, LLC* is therefore essential to protect the

23
 24 ¹ Stipulated Final Judgment And Order For Permanent Injunction And Other Equitable
 25 Relief As To Infusions Media, Inc.; West Coast Internet Media, Inc.; Two Warnings, LLC.;
 26 Platinum Teleservices, Inc.; Jonathan Eborn; Stephanie Burnside; Michael McLain Miller; And
 27 Tony D. Norton, Section III.A.2 ("Final Order") (Dkt. 74) (Oct. 4, 2010).

1 Court's ability to grant effective final relief, including compensation to consumers injured by
2 Defendants' conduct. *See* Fed. R. Civ. P. 65(b)(1)(A) (*ex parte* relief is warranted when specific
3 facts show that "immediate and irreparable injury, loss, or damage will result to the movant
4 before the adverse party can be heard in opposition"); *see also Reno Air Racing Assoc., Inc. v.*
5 *McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006); *In re Vuitton Et Fils S.A.*, 606 F.2d 1, 5 (2d Cir.
6 1979); *Cenergy Corp. v. Bryson Oil & Gas P.L.C.*, 657 F. Supp. 867, 870 (D. Nev. 1987) (*ex*
7 *parte* TRO warranted where notice would only serve to "defeat the very purpose for the TRO").

8 The proposed Seal Order is narrowly tailored to its express purpose of protecting the
9 potential availability of full and effective final relief. Sealing the entire docket is necessary to
10 minimize the risk of Defendants receiving advance notice. If any of the materials filed in
11 connection with the FTC's Contempt Motion or Motion to Admit were docketed as matters of
12 public record, there is a substantial likelihood that Defendants would learn of this action before
13 the requested *ex parte* TRO in *Philip Danielson, LLC* is issued and served on them. With such
14 advance notice, Defendants may well dissipate or conceal assets, and destroy or conceal business
15 records—thereby frustrating the Court's ability to grant effective monetary relief for the victims
16 of Defendants' unlawful practices. The Certification of Plaintiff's Counsel Thomas J. Widor,
17 together with the FTC's Contempt and TRO filings, explain why, given the circumstances of this
18 case, it is particularly crucial that the entire docket and file be sealed until the FTC has had an
19 opportunity to execute the provisions of the TRO and serve Defendants with the TRO. This
20 Court has previously granted this type of relief in this matter. Order Granting Mot. Seal File,
21 Dkt. 10 (June 23, 2009). Indeed, many courts in this District have granted similar relief in FTC
22 enforcement cases. *See, e.g., FTC v. Dayton Family Productions*, No 2:97-cv-00750-PMP
23 (LRL) (D. Nev. Jan. 28, 2013) (granting the same relief requested here); *FTC v. Moneymaker*,
24 No. 2:11-cv-00461-JCM (CWH) (D. Nev. Mar. 28, 2011) (sealing entire docket pending service
25 on defendants); *FTC v. Ivy Capital, Inc. et al.*, No. 2:11-cv-00283-JCM (GWF) (D. Nev. Feb. 22,

1 2011) (same); *FTC v. Grant Connect, LLC et al.*, No. 2:09-cv-01349-PMP (NJK) (D. Nev. July
2 28, 2009) (same); *FTC v. Infusion Media, Inc. et al.*, No. 2:09-cv-01112-GMN (VCF) (D. Nev.
3 June 23, 2009) (same); *FTC v. ERG Ventures, LLC*, No. 3:06-cv-00578-HDM (VPC) (D. Nev.
4 Oct. 31, 2006) (same); *FTC v. Global Net Solutions, Inc.*, No. 2:05-cv-0002-PMP (LRL) (D.
5 Nev. Jan. 3, 2005) (same).

6 For the foregoing reasons, the FTC respectfully requests that this Court direct the Clerk
7 of the Court to maintain all of the filings and docket in this matter under seal for five business
8 days, or until the FTC notifies the Clerk that the seal is no longer necessary, whichever occurs
9 first. A proposed Seal Order is submitted herewith.

10
11 Dated: June 9, 2014

Respectfully submitted,

12 

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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

INFUSION MEDIA, INC., *et al.*
Defendants.

Case No. 2:09-cv-01112-GMN-VCF

FILED UNDER SEAL

EX PARTE ORDER
TEMPORARILY SEALING ENTIRE FILE AND DOCKET

Upon due consideration of the Federal Trade Commission's *Ex Parte* Motion for an Order Temporarily Sealing Entire File and Docket and Memorandum in Support, and good cause appearing therefor,

IT IS HEREBY ORDERED that the entire file and docket in this action be sealed, and that all documents submitted in this matter be filed under seal, including: (1) Federal Trade Commission's *Ex Parte* Motion to Hold Tony D. Norton; Philip J. Danielson; Philip Danielson, LLC; Foundation Business Solutions, LLC; Strata G Solutions, LLC; and Direct Results Solutions, LLC in Contempt, and Memorandum in Support; (2) Motion to Admit Government Attorneys; and (3) all exhibits, certifications, and papers filed in support of the FTC's Contempt Motion.

IT IS FURTHER ORDERED that the Clerk of the Court shall not initiate any electronic filing or docketing activity in this matter until the seal has been lifted as described below.


IT IS FURTHER ORDERED that this seal does not preclude the Clerk of the Court from providing counsel for the Federal Trade Commission with copies of any orders issued by the Court while the seal remains in effect, and this Order shall not be construed to prohibit the

FTC from providing this Order, a temporary restraining order, or other pleadings and papers filed in this action to Contempt Defendants, process servers, law enforcement authorities, credit reporting agencies, financial institutions or other persons who may hold assets of Contempt Defendants, custodians of business records of Contempt Defendants, consumer victims, or potential witnesses for a possible preliminary injunction hearing.

IT IS FURTHER ORDERED that, unless otherwise ordered or provided, this seal shall dissolve the earlier of: (a) five (5) business days from the signing and entry of a temporary restraining order in *FTC v. Philip Danielson, LLC*; or (b) upon the Clerk's receipt of written notice from the FTC that service of a temporary restraining order or other interim order has been made upon all Contempt Defendants or that there is no further need to keep the materials under seal.

IT IS FURTHER ORDERED that persons who receive notice of this action and this Order before the seal is lifted shall not disclose the existence of this action, this Order, or the terms of any order entered by this Court, except to the extent necessary to implement any temporary restraining order that the Court may enter.

IT IS SO ORDERED.



Gloria M. Navarro, Chief Judge
United States District Court

DATED: 06/13/2014